APPENDIX

Affidavit of George D. Webster and John Henry Brebbia

We do state upon our oaths as follows:

1. We were named as defendants (sic) [respondents] in proceedings known as *Fielding, et al.* v. *Federal Savings & Loan Insurance Corporation, et al.*, United States Court of Appeals for the Ninth Circuit, No. 25965.

2. We are not parties to the action known as *Federal Savings & Loan Insurance Corporation* v. *Fielding, et al.*, Civil Action No. LV-1222, United States District Court for the District of Nevada, nor have we individually or collectively ever represented Federal Savings & Loan Insurance Corporation either directly or indirectly in said suit or in any other matter, nor were we ever served with process in that proceeding.

3. We were not served either within or without the state of Nevada in the above entitled actions with any process issuing from the United States District Court for the District of Nevada.

4. We have never voluntarily submitted ourselves to the jurisdiction of the United States District Court for the District of Nevada in the above entitled actions.

GEORGE D. WEBSTER
George D. Webster

JOHN HENRY BREBBIA
John Henry Brebbia

Subscribed and sworn to this 2nd day of July 1970.

My Commission Expires September 14, 1972

Lillian S. Witt
Notary Public

Affidavit of Albert G. Neumeyer

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES } ss.

ALBERT G. NEUMEYER being duly sworn, deposes and says:

1. That he was President of First Western Savings and Loan Association from 1958 to 1963; that he was Chairman of the Board from 1959 to 1964; that he served as the director for Nevada of the Federal Home Loan Bank of San Francisco from 1962 to 1964; that he was Chairman of the Executive Committee and Director of First Western Financial Corporation from 1960 to 1964; that he was a Director of the National League of Insured Savings Associations and on its Board of Governors from 1959 to 1964.

2. That he is defendant in this action and that he is also a defendant in the action filed in Eighth Judicial District Court of Nevada in and for the County of Clark, No. A-43922, and that in connection therewith he submitted an affidavit dated the 26th day of March, 1970.

3. That he has reviewed the affidavit of attorney Norbert A. Schlei dated the third day of April, 1970.

4. That in paragraph eight of Mr. Schlei's affidavit Mr. Schlei states as follows: "Mr. Neumeyer's affidavit (paragraph eight) attributes to me statements which were actually his statements, with which, in reliance on the facts that he asserted, I did not disagree." In the paragraph referred to by Mr. Schlei in my affidavit dated March 26, 1970, I stated as follows: "Shortly after the June 6, 1967, meeting, Mr. Schlei personally advised affiant that he thought the entire case was ridiculous and that there was no cause of action; he further advised that even if everything pleaded in the complaint were true, so long as affiant didn't put money in his pocket there was no cause of action against him. Further, Mr. Schlei told affiant that 'they might find bad judgment, but not negligence to the point where they can get any money back.'" Mr. Schlei

advised affiant that he thought the entire case was ridiculous and that there was no cause of action. These are not statements made by the affiant to Mr. Schlei as Mr. Schlei states in paragraph eight of his affidavit. Mr. Schlei further advised affiant that even if everything pleaded in the complaint were true so long as affiant did not put money in his pocket there was no cause of action against him, and this statement was not made by affiant to Mr. Schlei. Mr. Schlei further told affiant that "they might find bad judgment, but not negligence to the point where they can get any money back." Affiant did not make this statement to Mr. Schlei. Affiant's purpose in inviting Mr. Schlei to attend the meeting of June 6, 1967, was for the purpose of securing Mr. Schlei's legal advice and opinion regarding the complaint filed in case A-43922 and it was in response to this that Mr. Schlei made these statements to affiant.

5. That Mr. Schlei did not state to affiant as alleged in paragraph eleven of Mr. Schlei's affidavit that "if the firm's recommendation should be that the pending litigation ought to be continued or other litigation instituted, the firm would undoubtedly be asked to handle such litigation, and, of course would want to be free to do so if it took the engagement at all." Mr. Schlei led affiant to believe that Mr. Hills was to look into the matter of case A-43922 in the role of an arbiter. Affiant's affidavit of March 26, 1970, sets forth the statements made by Mr. Schlei to affiant. In paragraph twelve of his affidavit, Mr. Schlei states that he had made it clear to affiant that the Hills firm might be involved in litigation adverse to affiant. This is not true.

6. That Mr. Schlei states also in paragraph twelve of his affidavit that he did not send affiant a confirming letter because he felt that affiant might "find it insulting for me to write to him in a formal way about a subject on which we had on the telephone arrived at such a clear understanding." Affiant with many years of experience in the business world, understands the necessity for letters of confirmation and could have hardly been insulted at

receiving in writing that which he had allegedly been informed over the telephone.

7. Mr. Schlei in paragraph fourteen of his affidavit states that he "undoubtedly" conveyed to affiant that the Hills firm would have to be free to handle the litigation against affiant and that affiant's waiver would have to extend to that eventuality or that the Hills firm could not take the engagement. Mr. Schlei did not so inform affiant and affiant did not waive objection as described in the last sentence in paragraph fourteen of Mr. Schlei's affidavit.

8. Mr. Schlei in paragraph sixteen of his affidavit states "as I understand the present controversy, it is not contended that any confidential information about the defenddants has actually been used against them to their prejudice." Paragraph six of affiant's affidavit dated March 26, 1970, sets forth in brief what occurred at the lengthy meeting held on June 6, 1967, at which a number of defendants were present along with their counsel. The meeting took a number of hours and was essentially a discussion of defense strategy in case A-43922. Affiant states that the meeting was definitely a confidential one.

9. That nothing which appears in the affidavit of Mr. Schlei is sufficiently compelling to lead affiant to the conclusion that resignation by Mr. Schlei from the Hills firm would remove the conflict of interest, as indicated in the last sentence of Mr. Schlei's affidavit.

Further affiant sayeth not.

Dated: April 15, 1970.

ALBERT G. NEUMEYER
Albert G. Neumeyer

Subscribed and sworn to before me this 15th day of April, 1970.

HARRIETT L. MAAS
Notary Public

My Commission Expires August 28, 1972.

[SEAL]

Affidavit of David Brady

STATE OF NEW YORK
COUNTY OF NEW YORK } ss:

DAVID BRADY, being duly sworn, deposes and says:

1. I am and have been since 1921 on attorney and counsellor at-law and duly admitted to practice in all the courts in the State of New York.

2. Prior to June, 1967 I was retained by Robert C. Fielding and Albert G. Neumeyer to represent and advise them in connection with problems arising from or relating to First Western Financial Corporation and First Western Savings and Loan Association, and more particularly in connection with an action instituted in the State Court of Nevada by FWSLA v. Melvin Moss, et al.

3. I suggested the advisability of a round table conference with all of the defendants, their counsel, and others having knowledge of the facts, together with their counsel or advisers.

4. As a result, I was asked to attend a meeting which had been arranged to be held on June 6, 1967 in the apartment of Mr. Neumeyer in the Beverly Wilshire Hotel, Beverly Hills, California.

5. I left New York on Flight 7 of TWA on Tuesday, June 6, 1967 at 11 A.M. and arrived in Los Angeles about 1:30 P.M. (Pacific Coast Time). I took a taxi from the airport and arrived at Mr. Neumeyer's apartment shortly after 2 P.M. Messrs. Neumeyer, Fielding, Edward Hellmer, Melvin Moss and Clifford Jones were present. I was introduced to Judge Taylor H. Wines of the law firm of Galane & Wines of Las Vegas, Nevada, counsel of record for the defendants, and to Messrs. Norbert Schlei and Stanley Leland as personal counsel or advisors of Mr. Neumeyer.

6. During the meeting the allegations of the complaint were reviewed at length and in detail, and various persons present stated their recollections of the facts; reviewed the

history of the First Western Corporations; discussed the attitude of the Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation, and discussed their examination reports. There was also discussion regarding the facts and reasons for the growth of First Western Savings and Loan Corporation and the events leading up to their difficulties in Las Vegas, and the facts relating to Nevada Savings and Loan which contributed to those problems. There was also discussion of the functions and activities of persons who were not then named as defendants and what, if any, their activities might have on the case.

7. I stated that in all probability stockholders' actions would be instituted, and raised the question as to what effect they might have. I stated that I had advised Messrs. Fielding and Neumeyer that they should cooperate in any such actions wherever appropriate and to the entent that it was consistent with their own interests and problems. There was a general discussion of the facts and circumstances relating to the action by First Western Savings and Loan against Moss and others for waste and mismanagement during which relevant facts as well as questions of law were raised and discussed.

8. All counsel were asked to comment with respect to the facts and the legal questions raised by the facts and they did so freely. Counsel present were asked and gave their opinions with respect to applicable questions of Nevada and California law, including questions of jurisdiction.

9. During this time Mr. Norbert Schlei, as well as the other persons herein named, were present and participated in the discussions.

DAVID BRADY
David Brady

Sworn to before me this
2nd day of June, 1969.

EDNA M. MILBERRY
Notary Public